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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,877	08/02/2001	Jerry Y. Jonn	104226.01	4857
25944	7590	11/03/2004	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320			CHOI, FRANK I	
			ART UNIT	PAPER NUMBER
			1616	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/919,877

**Applicant(s)**

JONN ET AL.

**Examiner**

Frank I Choi

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-27,46 and 48-71 is/are pending in the application.
- 4a) Of the above claim(s) 18-27,46 and 48-58 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-17 and 59-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1,3-27,46 and 48-71 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

In view of the Appeal Brief filed on 8/27/2004, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below. To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

### ***Claim Rejections - 35 USC § 102/103***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,69,70 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Leung et al. (US Pat. 5,328,687).

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Leung et al. expressly discloses a biocompatible monomer composition, comprising at least one monomer, where the at least one monomer is an alpha-cyanoacrylate which is an alkyl ester cyanoacrylate (See Claim 7) falling within the scope of applicant's claims. The limitation "at least one" includes more than one monomer and another monomer which is different from the specific alkyl ester cyanoacrylate chosen will have a different absorption rate (See e.g. Hammerslag (US Pat. 6,386,203) and Collins et al. discussed below cited herein as extrinsic evidence).

Alternatively, at the very least the claimed invention is rendered obvious within the meaning of 35 USC 103, because the prior art discloses products that contain the same exact ingredients/components as that of the claimed invention. See *In re Fitzgerald*, 205 USPQ 594 (CCPA 1980). See also *In re May*, 197 USPQ 601, 607 (CCPA 1978).

Claims 1, 3-17, 59-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (US Pat. 5,981,621) in view of Kronenthal et al. (US Pat. 3,995,641), Hammerslag (US Pat. 6,386,203) and EP 0 965 623.

Clark et al. teach a composition comprising at least two different monomers which form a medically acceptable polymer, at least one plasticizer and a mixture of anionic and radical stabilizers, such as sulfur dioxide, hydroquinone, p-methoxyphenol and butylated hydroxyanisole (Column 2, lines 63-68, Columns 3-6, Claims 1, 7). It is taught that in applying composition a polymerization initiator, such as benzalkonium chloride, is used and may be readily selected by one of ordinary skill in the art without undue experimentation (Column 11, lines 18-68). Examples of suitable monomers include 2-octyl cyanocrylate, 2-isopropoxyethyl cyanoacrylate

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and alpha-cyanoacrylates disclosed in US Pat. 3,995,641 to Kronenthal et al. (Column 4, lines 7-68, Column 5, lines 1-65)

Kronenthal et al. teaches carbalkoxyalkyl 2- cyanoacrylates which are readily assimilated by tissues and exhibit a relatively low degree of inflammatory tissue response (column 1, lines 60-68, Column 2, lines 1-11).

Hammerslag teaches that polymerizable cyanoacrylates can be co-polymerized with other compounds that alter elasticity, modify viscosity and aid in biodegradation (Column 5, lines 21-33). It is taught that suitable cyanoacrylates can be chosen from methyl , ethyl, butyl, methoxypropyl, alkoxyalkyl, and carbalkoxyalkyl depending on acceptable toxicity and other properties for a given application (Column 5, lines 54-67). It is taught that there is a wide variation in the rates of biodegradation of cyanocrylates but generally polymers of cyanoacrylates which have substituents that are small and/or contain one or more oxygen-containing functional groups appear to have increased biodegradability rates whereas cyanoacrylates having long chain alkyl groups lacking in oxygen-containing functional groups as substituents tend to form polymers which biodegrade more slowly (Column 6, lines 33-45). It is taught that one of ordinary skill in the art would be able to by routine experimentation choose a cyanoacrylate with suitable biodegradation characteristics (Column 6, lines 49-56).

EP 0 965 623 teaches the combination of sulfuric acid and sulfur dioxide with free radical stabilizers for use in cyanoacrylate compositions to stabilize and enhance the shelf-life of said composition (Pg.4, lines 5-35, Pg. 5, lines 33-51). It is taught that suitable cyanoacrylates include 2-octyl cyanocrylate, 2-isopropoxyethyl cyanoacrylate and alpha-cyanoacrylates disclosed in US Pat. 3,995,641 to Kronenthal et al. (Pg. 9, Pg. 10, lines 1-28).

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The difference between the prior art and the claimed invention is that the prior art does not expressly disclose a composition or film having a first monomer, which includes alkyl ester cyanoacrylate, and a different second monomer where the absorption rate of the first monomer species is different from the absorption rate of the second monomer species. However, the prior art amply suggests the same as the prior art discloses the combination of different monomers in forming medical adhesives. Further, it would have been well within the skill of and one of ordinary skill in the art would have been motivated to combine an alkyl ester cyanoacrylate with a different cyanoacrylate, such as an octyl 2-cyanoacrylate or alkylether cyanoacrylate, with the expectation that biodegradation of the composition could be adjusted readily by modifying the ratio of the monomers and the composition would have a low degree of inflammatory response. Further, one of ordinary skill in the art would have been motivated to combine sulfur dioxide and sulfuric acid with radical stabilizers such as hydroquinone, p-methoxyphenol and butylated hydroxyanisole with the expectation that the composition would be more stable.

Examiner has duly considered Applicant's arguments but deems them unpersuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 231 USPQ 375 (Fed. Cir. 1986). Further, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 208 USPQ 871 (CCPA 1981).

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Contrary to Applicant's arguments, Clark et al. specifically discloses the claimed alkyl ester cyanoacrylate monomer in that the alpha-cyanoacrylates of Kronenthal et al. are alkyl ester cyanoacrylates (See Clark et al. at Column 5, lines 34-65). Applicant also argues that Clark et al. teaches away from selecting alkyl ester cyanoacrylates because it discloses a preference for alkyl alpha-cyanoacrylate monomers. However, disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 69 USPQ 423 (CCPA 1971). "A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." In re Gurley, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994).

Further, contrary to Applicant's arguments, Clark et al. specifically discloses the combination of at least two different monomers (See Clark et al. at claim 7). Since Clark et al. specifically discloses both alkyl ester cyanoacrylates and the use of at least two different monomers, Applicant's argument that, at most, one of ordinary skill in the art might have been motivated to modify Clark et al. by only using the alkyl ester cyanoacrylate is without merit. Banitt et al. et al. and Collins et al. are not part of the present rejection, as such, Applicant's arguments are inapplicable as to the same. Applicant argues that Clark et al. appears to be directly contradictory with Kronenthal et al. in that Clark express a preference for alkyl alpha-cyanoacrylates whereas Kronenthal et al. expresses a preference for carbalkoxyalkyl 2-cyanoacrylate, i.e. an alkyl ester cyanoacrylates. However, as indicated above, Clark et al. specifically discloses the use of the alpha-cyanoacrylates of Kronenthal et al. and disclosed examples and preferred embodiments do not constitute a teaching away from the claimed invention.

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Applicant argues that Hammerslag teaches away from the claimed invention because an example is disclosed in which biodegradation can be varied by cross-linking a polymer product into the cyanoacrylate adhesive. However, Hammerslag also discloses that polymerizable cyanoacrylates can be co-polymerized with other compounds that aid biodegradation (Hammerslag at Column 5, lines 22-27). As indicated above, disclosed examples and preferred embodiments do not constitute a teaching away from the claimed invention. Hammerslag, thus, as indicated above, discloses that different types of cyanoacrylates have different biodegradation rates and that cyanoacrylates can be co-polymerized with other compounds to modify the biodegradation rate. As such, in light of the combined teachings of the prior art, it would have been well within the skill of one of ordinary skill in the art would have been motivated to modify the prior art with the expectation that biodegradation rates can be modified by combining at least two different monomers having different biodegradation rates.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

Claims 1, 3-17, 59-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al. (US Pat. 5,981,621) in view of Kronenthal et al. (US Pat. 3,995,641), Hammerslag (US Pat. 6,386,203) and EP 0 965 623, in further view of Banitt et al. (US Pat. 3,559,652) or Collins et al.

Clark et al. (US Pat. 5,981,621), Kronenthal et al. (US Pat. 3,995,641), Hammerslag (US Pat. 6,386,203) and EP 0 965 623 are cited for the same reasons as above and are incorporated herein to avoid repetition.



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Banitt et al. teaches that alkoxyalkyl 2-cyanoacrylates are biodegradable and have minimal toxicity (Column 1, lines 70-75, Column 2).

Collins et al. teach that the longer chained alkyl cyanoacrylates, such as octyl 2-cyanocrylate, are more effective tissue adhesives and hemostasis-inducing agents than the lower homologues because of their faster polymerization rate in blood, however, the higher homologues do not biodegrade as rapidly. (Pgs. 428, 429, 431). It is taught that the salutary combination of effectiveness in hemostasis inducing ability of the higher homologues and rapid biodegradation of the methyl monomer would be highly desirable in a tissue adhesive (Pgs. 431, 432).

The difference between the prior art and the claimed invention is that the prior art does not expressly disclose a composition or film having a first monomer, which includes alkyl ester cyanoacrylate, and a different second monomer where the absorption rate of the first monomer species is different from the absorption rate of the second monomer species. However, the prior art amply suggests the same as the prior art discloses the combination of different monomers in forming medical adhesives. Further, it would have been well within the skill of and one of ordinary skill in the art would have been motivated to combine an alkyl ester cyanoacrylate with higher alkyl cyanoacrylate, such as octyl 2-cyanoacrylate, with the expectation that the composition would be suitable for use as a tissue adhesive and hemostasis-inducing agent, or with an alkyl ether cyanoacrylate with the expectation that the composition would have low toxicity, and in each case, with the expectation that the biodegradation rate could be adjusted readily by modifying the ratio of the monomers. Further, one of ordinary skill in the art would have been motivated to combine sulfur dioxide and sulfuric acid with radical stabilizers such as

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hydroquinone, p-methoxyphenol and butylated hydroxyanisole with the expectation that the composition would be more stable.

Examiner has duly considered Applicant's arguments but deems them unpersuasive, for the reasons above, to the extent that they are applicable, and the further reasons below.

Applicant argues that neither Banitt et al. nor Collins et al. discloses selecting two different monomer species. However, as indicated above, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 208 USPQ 871 (CCPA 1981).

Clark et al., Kronenthal et al., Banitt et al. and Collins et al. do not contradict each other because disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments. In re Susi, 69 USPQ 423 (CCPA 1971). "A known or obvious composition does not become patentable simply because it has been described as somewhat inferior to some other product for the same use." In re Gurley, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994). Further, Clark et al., as indicated above, specifically discloses the mixture of at least two different monomers and discloses the use of cyanocrylates disclosed in Kronenthal et al., octyl 2-cyanocrylate which is also disclosed Collins et al. and alkyl ether cyanocrylates which are also disclosed in Banitt et al..

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

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Claims 1, 3,4, 8, 9,11,12,14,17,59-62,64,66-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger et al. (US Pat. 5,998,472) in view of Kronenthal et al. (US Pat. 3,995,641) and Hammerslag (US Pat. 6,386,203).

Berger et al discloses the mixture of reactive C1 to C8 cyanoacrylate ester monomer and a C10-C12 cyanoacrylate monomer to provide enhanced flexibility of the polymer film (Column 3, lines 1-54). It is disclosed that the term "C1 to C8 alkyl cyanoacrylate compositions" refers to polymerizable formulations comprising polymerizable cyanoacrylate ester monomers (Column 4, lines 60-68). It is disclosed that polymerizable cyanoacrylate ester monomers are known in the art and are described in US Pat. No. 3,995,641 to Kronenthal et al. (Column 1, lines 30, 31, Column 5, lines 31-44).

Kronenthal et al. (US Pat. 3,995,641) and Hammerslag (US Pat. 6,386,203) are cited for the same reasons as above and are incorporated herein to avoid repetition.

The difference between the prior art and the claimed invention is that the prior art does not expressly disclose combination of alkyl ester cyanoacrylate and other monomer based on difference in biodegradation rate. However, the prior art amply suggests the same as the prior art discloses the combination of different monomers in forming medical adhesives. Further, it would have been well within the skill of and one of ordinary skill in the art would have been motivated to combine an alkyl ester cyanoacrylate with a different cyanoacrylate, such as an C10-C12 alkyl cyanoacrylate, with the expectation that biodegradation of the composition could be adjusted readily by modifying the ratio of the monomers, that the composition would exhibit a low degree of inflammatory response and that the polymerized film would exhibit flexibility.

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Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,3,69,70 are rejected under the judicially created doctrine of obviousness-type double patenting as being expressly and inherently anticipated by claim 44 of U.S. Patent No. 6,662,846. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a polymerizable composition containing an alkyl ester cyanoacrylate and another cyanoacrylate monomer. Another monomer which is different from the specific alkyl ester cyanoacrylate chosen will have a different absorption rate (See e.g. Hammerslag (US Pat. 6,386,203) and Collins et al. discussed above cited herein as extrinsic evidence).

Claims 1,3-10,12, 69,70 are rejected under the judicially created doctrine of obviousness-type double patenting as being expressly and inherently anticipated by claims 3, 24 of U.S. Pat.

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6,605,667. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim a polymerizable composition containing an alkyl ester cyanoacrylate and another cyanoacrylate monomer. Specifically claims 3, 24 of U.S. Pat. 6,605,667 disclose an adhesive composition containing a polymerizable monomer where said monomer is at least one member selected from a group including butyl lactoyl cyanoacrylate, butyl glycololyl cyanoacrylate, ethyl lactoyl cyanoacrylate, ethyl glycoloyl cyanoacrylate, 2-octyl cyanoacrylate, methoxyethyl cyanoacrylate and ethoxyethyl cyanoacrylate. Another monomer which is different from the specific alkyl ester cyanoacrylate chosen will have a different absorption rate (See e.g. Hammerslag (US Pat. 6,386,203) and Collins et al. discussed above cited herein as extrinsic evidence). Further, the limitation "at least one member" includes more than one monomer.

Claims 1, 3-17, 59-71 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 44, 64-70 of U.S. Patent No. 6,620,846 or claims 3, 24 of U.S. Pat. 6,605,667, each in view of Clark et al. (US Pat. 5,981,621), Hammerslag (US Pat. 6,386,203) and EP 0 965 623, or Clark et al. (US Pat. 5,981,621), Hammerslag (US Pat. 6,386,203) and EP 0 965 623, in further view of Banitt et al. (US Pat. 3,559,652) or Collins et al.

Claims 44, 64-70 of US Pat. 6,620,846 disclose an adhesive composition containing an alkyl ester cyanoacrylate monomer, such as butyl lactoyl cyanoacrylate and a quaternary amine polymerization initiator which can be cured to form a polymerized film. Claim 44 specifically discloses that the adhesive composition further contains another cyanoacrylate monomer.

Claims 3, 24 of U.S. Pat. 6,605,667 disclose an adhesive composition containing a polymerizable monomer where said monomer is at least one member selected from a group including butyl lactoyl cyanoacrylate, butyl glycololyl cyanoacrylate, ethyl lactoyl cyanoacrylate, ethyl glycoloyl cyanoacrylate, 2-octyl cyanoacrylate, methoxyethyl cyanoacrylate and ethoxyethyl cyanoacrylate.

Clark et al. (US Pat. 5,981,621), Hammerslag (US Pat. 6,386,203) and EP 0 965 623 are cited for the same reasons as above and are incorporated herein to avoid repetition.

Banitt et al. (US Pat. 3,559,652) or Collins et al. are cited for the same reasons as above and are incorporated herein to avoid repetition.

The difference between the claims 44,64-70 of US Pat. 6,620,846 and the claimed invention is that the claims of said US Patent do not expressly disclose choosing the other monomer based on difference in biodegradation rate. However, the prior art amply suggests the same as the prior art discloses the combination of different monomers in forming medical adhesives. Further, it would have been well within the skill of and one of ordinary skill in the art would have been motivated to combine an alkyl ester cyanoacrylate with a different cyanoacrylate, such as an octyl 2-cyanoacrylate or alkylether cyanoacrylate, with the expectation that biodegradation of the composition could be adjusted readily by modifying the ratio of the monomers. Further, one of ordinary skill in the art would have been motivated to combine sulfur dioxide and sulfuric acid with radical stabilizers such as hydroquinone, p-methoxyphenol and butylated hydroxyanisole with the expectation that the composition would be more stable.

Examiner has duly considered Applicant's arguments but deems them unpersuasive for the same reasons as above.

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Therefore, the claimed invention, as a whole, would have been an obvious modification of the claims of said US Patent to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references and the claims of said US Patent.

### ***Conclusion***

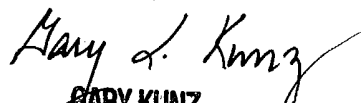
A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a flexible schedule. However, Examiner may generally be reached Monday-Friday, 8:00 am – 5:30 pm (EST), except the first Friday of the each biweek which is Examiner's normally scheduled day off.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Gary Kunz, can be reached at 571-272-0887. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

FIC

October 28, 2004



**GARY KUNZ**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**